

and it is time to look at what changes there might be, look to the budgetary objectives, and as soon as possible bring that bill to the floor.

Mr. DURBIN. Mr. President, if the Senator will further yield for a question through the Chair, I am sure the Senator is mindful that, in fact, a year ago in February we passed this bill, and we are very proud of our work product. I am sure it could have been better. We produced a very good product on a bipartisan basis, and then we failed to reach agreement with the White House and our colleagues in the House of Representatives.

My concern—which I am sure the leader shares—is that if we don't move in a similar timely fashion this year, we could enact it too late and lose another construction season which would be harmful to our economy and to the number of very good paying jobs that could be created across America with this bill.

I encourage my friend from Tennessee, and in the form of a question, I ask him if my hope is well placed that we can move quickly on this measure.

Mr. FRIST. Mr. President, the Senator's hope is well placed. I think what our colleagues just heard is a bipartisan leadership commitment to focus on this bill, to build on the past but recognizing that passing a bill in the Senate is not enough. We need to make sure we work with the House of Representatives and with the White House but taking the first step of getting it through the Senate.

The commitment is there. We will continue to encourage our chairmen and ranking members.

I yield the floor.

#### EXECUTIVE SESSION

#### NOMINATION OF MICHAEL CHERTOFF TO BE SECRETARY OF HOMELAND SECURITY

ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for the consideration of Executive Calendar No. 10, which the clerk will report.

The assistant legislative clerk read the nomination of Michael Chertoff, of New Jersey, to be Secretary of Homeland Security.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I rise in strong support of the nomination of

Judge Michael Chertoff to be the next Secretary of Homeland Security.

Based on my personal interview with him and his sworn testimony last week before the Committee on Homeland Security and Governmental Affairs, I am convinced that he has the character and the qualifications to excel in what is one of the most challenging and demanding positions in all of Government.

Let me begin my remarks today by first expressing my gratitude to the person whom Judge Chertoff seeks to replace. In the immediate aftermath of the attacks of September 11, Tom Ridge answered the call of service to his country. At a time when homeland security was little more than a concept, Tom Ridge stepped forward to begin the monumental task of making it a reality. He is a pioneer and a patriot. On behalf of all Americans, I thank Secretary Ridge and I wish him great success in his future endeavors.

Judge Chertoff now steps forward to answer this call. The strengths and experience he brings are impressive. He has devoted a significant part of his life to public service as a Federal prosecutor in New Jersey, as head of the Justice Department's Criminal Division, and now as a Federal judge. As the overwhelming vote for his judicial confirmation 2 years ago demonstrated, as well as the unanimous vote by the Homeland Security Committee, he is well respected on both sides of the aisle. Since 9/11, Judge Chertoff has established himself as the leading expert on the legal and national security issues surrounding the war on terrorism.

The debate on this nomination will take place in the context of where the Department of Homeland Security currently stands and where we want it to go.

For the context to be complete, however, it is important we also consider the environment into which the Department was born. In the immediate aftermath of the attacks on our country on September 11, America was a nation determined to defeat terrorism, but we were still feeling our way toward an effective response.

We knew from the start that protecting America from terrorism could not come at the cost of the freedoms that define us as Americans. In those perilous, uncertain days, however, the proper balance between the two seemed somewhat different than it does now in the relative comfort of today. Judge Chertoff recognizes the need for a constant reevaluation to maintain the proper balance between liberty and security. This is how he put it in a speech he gave at Rutgers Law School in 2003:

Measures that are easily accepted in the sudden response to overwhelming crisis demand somewhat greater testing in the light of experience. In the heat of the battle, the decisionmaker has to rely on foresight because he has no hindsight. We should not, therefore, judge him in hindsight. But at the same time, when hindsight does become available, we would be foolish if we did not take advantage of the lessons for the future.

As to the nature of that balance, here is what Judge Chertoff said in response to a question I posed to him during his confirmation hearing:

I believe that we cannot live in liberty without security, but we would not want to live in security without liberty.

Judge Chertoff does not just talk the talk of civil liberties; he has walked the walk. As both of my distinguished colleagues from New Jersey, Senator LAUTENBERG and Senator CORZINE, pointed out when introducing this nominee to the committee, Michael Chertoff, as counsel to that State's legislature, played a key role in investigating allegations of racial profiling in traffic stops and in crafting legislation to address this important civil liberties issue.

Nowhere is the tension between security and civil liberties more evident than in the matter of interrogating those detained in the war on terrorism. In his responses to our committee's written questions, Judge Chertoff made it absolutely clear that he believes torture is wrong, no matter where it occurs. His commitment to upholding the due process rights of those detained for immigration violations was unambiguous.

His commitment to civil liberties is clear. At the same time, there is no doubt that he is a tough-minded enforcer of the law. As a Federal prosecutor, he built his strong reputation for aggressively fighting organized crime, corruption, and fraud in both the public and private sectors. His success in those fights was helped greatly by his willingness to work closely with agencies that are now part of the Department of Homeland Security, such as Customs and the Secret Service, as well as with first responders such as State and local police.

In fact, on a recent trip to the Los Angeles area to study the security of our ports, I asked a wide variety of law enforcement officials what they thought of the nomination of Judge Chertoff. To a person, they enthusiastically endorsed his nomination. They felt his law enforcement background was precisely what the Department needs at this stage of this development.

I also point out, as head of the criminal division at the Department of Justice in the aftermath of September 11, Michael Chertoff underwent a true trial by fire, managing a critical organization during a time of great stress. He knows what is needed to fight the war on terrorism, the importance of strategic planning, and the need to constantly improve information sharing and cooperation among agencies at all levels of Government. Our Nation will benefit greatly from these attributes and from the experiences he has had.

The broad philosophy Judge Chertoff brings to this position is impressive, but so is his understanding of the myriad nuts-and-bolts issues that comprise Homeland Security. I was so impressed, when I questioned him in the first

interview in my office, with his extraordinary knowledge of all facets of the Department and its programs and policies. Coming from a State that is a major transportation center, Judge Chertoff knows the dangers we face from land, air, and sea, and the specific dangers each mode of transportation presents. But as he made clear to my committee, he also knows if we devote an inordinate share of scarce resources to one transportation mode, it will only increase our vulnerabilities elsewhere.

I note that is one of the challenges this Congress is going to face in allocating Homeland Security grant moneys. If we focus too much of the funding on large cities, inevitably it will be our smaller towns and communities that are exploited by terrorists. We should always remember that while their targets may be our large population centers, the terrorists who trained prior to the September 11 attacks did so in small communities throughout our country. Indeed, two of the terrorists on that terrible day started their journey of death and destruction from Portland, ME. Those are some of the challenges Judge Chertoff will face.

What most impressed me was Judge Chertoff's answer to my question of why, having just attained a lifetime position at the pinnacle of his profession less than 2 years ago, a position as a judge on one of the most prestigious courts in our country, he would sacrifice all that he had gained to take on such a difficult job. I was so impressed with his response because it shows the measure of this man, his willingness to sacrifice for his country and his commitment to putting the needs of our Nation first before his own personal needs. Here is his answer:

September 11 and the challenge it posed was, at least by my lights, the greatest challenge of my generation and it was one that touched me both personally and in my work at the Department of Justice. The call to serve in helping to protect America was the one call I could not decline.

What inspiring words: The call to serve in helping to protect America was the one call I could not decline. Judge Chertoff stepped forward to answer the call of his country to serve in this difficult and demanding post and to give up a lifetime appointment on the Federal bench.

It is often pointed out that the job we are here to fill is so extraordinarily difficult because the stakes and the expectations are so high. We do not expect the Secretary of Transportation to eliminate all highway fatalities. We do not expect the Secretary of Labor to make layoffs obsolete. But the Secretary of Homeland Security is allowed no margin of error.

In his statement to my committee, Judge Chertoff said he cannot promise such perfection. Indeed, no one can. But he did promise to work tirelessly and to do everything within the law to keep our Nation safe. That promise,

combined with his character, qualifications, and extraordinary experience, makes it a privilege for me to enthusiastically present his nomination to my colleagues in the Senate.

That background is also why I personally am very disappointed the Senate did not act last week to confirm this nominee. It has now been 13 days since Tom Ridge vacated the Office of Secretary of Homeland Security. It is an urgent task for the Senate to act to confirm his replacement as soon as possible. I am disappointed a small minority on the other side of the aisle has sought to delay this nomination, first by objecting to a prompt markup by the committee and now by asking for extended debate. I am pleased my colleagues recognized the need to move fairly quickly and agreed to a vote on this nominee last week. However, given the extraordinary qualifications of this nominee, his willingness to serve the country, the extraordinary demands of this job, and the urgent need for there to be a new Secretary in place as soon as possible, I simply do not understand the decision by a few of my colleagues—and only a few of my colleagues—on the other side of the aisle to hold up this nominee.

I hope we can conclude the debate expeditiously. It is so important we confirm Judge Chertoff so he can begin the very hard work of taking over this Department and pursuing policies to help keep us safe and make us more secure.

I ask unanimous consent that the time during quorum calls be equally charged.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, in considering the nomination of Mr. Chertoff, I want to share with the Senate a conversation I had with him last week. It was about an issue that has plagued my State of Florida since last August, since we were hit by four hurricanes in a row within a 6-week period. That is enough that anybody should have to endure.

FEMA, which will be under the leadership of the new Secretary, once confirmed, responded and did an admirable job to begin with. But since then, we have had some problems. You heard me speak about them almost ad infinitum over the course of the session in September and October, and then again when we came back after the election in our special session. Congress stepped up and appropriated \$13.6 billion in emergency funding for that natural

disaster series. I thank our colleagues for moving so quickly to address the needs of the people in Florida especially but the other States that were affected as well.

I applaud the quick response, the coordination of the relief agencies, including FEMA, in the immediate aftermath of those four storms. In Congress we specifically directed that \$8.5 billion of that money was going straight to FEMA to help hurricane victims.

Well, I wish I could report that things are going smoothly. I cannot. I spoke with Judge Chertoff about these issues. I also spoke with FEMA Director Mike Brown in a meeting with other members of the Florida delegation.

Boiled down, we have two big issues: The very slow, if any, reimbursement for debris removal off of private rights of way; and then a second issue, that money was being poured into areas that did not have hurricane velocity winds, while for the places that got hit the hardest, it is so very difficult for them to get the funds they need, and now those counties and cities are having to pay themselves without FEMA reimbursement.

I hear on a daily basis from communities across our State that are having problems getting reimbursed for debris removal. Some of these counties and cities have even had to borrow money to go out and pay their bills while they are waiting for FEMA reimbursement.

I will give you an example. Lake County, to the northwest of Orlando, submitted a \$17 million bill for reimbursement months ago. Do you know how much they have received thus far? Three thousand dollars. There is no excuse for that. Plus, these counties that are begging, pleading, guess who they are coming to. They are coming to their handy-dandy Senator. They are begging and pleading for consistent information.

I will give you an example. Santa Rosa County reports they submitted a request for \$27 million in October. They have seen no reimbursement, and they are receiving mixed signals from FEMA as to what further information they may have to submit in order to get their application finally processed.

I will give you another example: Charlotte County. Charlotte County is down on the southwest coast of Florida. It is where the first monster hit. Charley hit with full force, with winds of 145 miles an hour, right off the water. It came right off the Gulf of Mexico, up Charlotte Bay, and hit Punta Gorda in Charlotte County. The county officials have stated that one day a FEMA official will declare some piles of debris eligible for reimbursement and the next day a different inspector will look at it and declare it is ineligible for reimbursement. This has to stop.

I will give you another example. Escambia County has received some relief but Pensacola, which is the main city in Escambia County, has not. This

is not how FEMA should be deciding to distribute our tax dollars.

Then there is the other major issue of the distribution of FEMA dollars to those counties that did not have hurricane force winds. FEMA paid out \$29 million—and just last week FEMA Director Brown defended it—to Miami-Dade County, where the highest winds were 54 miles an hour. Hurricane velocity winds do not start until you get to 74 miles an hour.

I thank the chair of the committee, Senator COLLINS, who is in the Chamber with us, and Senator LIEBERMAN, who have acknowledged there is something that needs to be told here. They have started an investigation, and they are looking into these allegations.

So what do you expect is going on here? Well, that is what their investigation is going to get to the bottom of. I am looking forward to it.

As I speak, I am going to vote for Judge Chertoff. As I said to him last week, he is going to be the leader of this gargantuan Department. He needs to make sure the components of his Department are functioning as they should, because we need to fairly and efficiently distribute FEMA dollars that we appropriated. And we appropriated lots of them: \$13.6 billion. Those moneys need to address the issues that are plaguing these States such as mine, so that when this occurs in the future we will not have all of this trauma that our citizens are going through.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank and commend the Senator from Florida for his ongoing concern and interest in the operations of FEMA. At the Senator's request, the Homeland Security and Governmental Affairs Committee has initiated an investigation into the FEMA expenditures in his State as well as some other States where similar issues have arisen. We are working very closely with the Inspector General in conducting that investigation. I appreciate the Senator's interest in requesting the committee to conduct this investigation.

I note that the Senator's more recent concerns, in his discussions with Judge Chertoff, are yet another reason why it is so critical we get Judge Chertoff confirmed and in place. The Department of Homeland Security faces a myriad of management challenges, and we need a strong Secretary on the job as soon as possible. The hearing the committee held was almost 2 weeks ago. I think it is very unfortunate that we did not move ahead and confirm the nominee last week.

I think the Senator from Florida has given yet another example of some of the challenges Judge Chertoff will face. So I appreciate the comments of the Senator, my colleague from Florida. We look forward to continuing to work with him on this investigation and to improve the efficiency and effectiveness of FEMA.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, parliamentary inquiry: We are now on the nomination of Judge Chertoff?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. NELSON of Florida. Mr. President, would it be in order for this Senator to request 5 minutes to speak on an issue as in morning business?

The ACTING PRESIDENT pro tempore. The Senator can make that request by unanimous consent.

Mr. NELSON. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### SOCIAL SECURITY

Mr. NELSON of Florida. Mr. President, it absolutely baffles me, this discussion going on about Social Security of which the President has laid out by sounding the alarm bell that something needs to be done, and yet the President has not come forth with a plan to address the fact that in 37 years, in the year 2042, Social Security will not be able to pay the full benefits, rather, 37 years in the future, would be able to only pay 73 cents on the dollar of Social Security benefits.

Where is the President's plan? The President has laid out that he wants to privatize Social Security with private accounts. Where is the President's plan? Why is there not a message from the White House to the Congress? I can suggest a reason as to why there is no plan: because basically the privatization plan does nothing for the solvency of Social Security when it needs it in 37 years and, instead, does the opposite by whacking benefits and increasing the national debt considerably, whether you look at a 10-year or a 75-year period, whatever one is calculating.

This Senator is not going to whack or cut Social Security benefits, nor is this Senator going to go with a plan that not only cuts benefits but also adds trillions of dollars to the national debt when we are running at a deficit situation where in excess of \$400 billion a year is spending in the red. And how do we get it? We go and borrow it. By the way, guess where we borrow it from. Mostly from banks in Japan and China. That doesn't sound too good from a defense posture of the country. This Senator is simply not going to support that. I will work with the President on the question of the solvency when it needs it, and we know it needs it in 37 years. But where is the President's plan? Unfortunately, I read in the morning paper that the President has decided that he is not going to send a plan. How can the President say, I have a plan, we have to do something about the solvency of Social Security, and not offer a plan?

What we need is a little common sense. What is happening is there is so

much resistance to this idea of privatization of Social Security that the White House is having a second thought about whether they should come forth with this plan, and that is why they are waiting to reveal it. If there is a good faith attempt to do something about the long-term solvency of Social Security, this Senator will definitely cooperate.

It was only because a Republican President, Ronald Reagan, and a Democratic congressional leader, Speaker Tip O'Neill, came together and said, we are going to solve the problem in 1982, we are going to solve the problem in a bipartisan fashion, and we are not going to play "gotcha" politics, and it is going to be a substantive solution—that was one of the finest moments of the Congress, coming together in bipartisanship to solve a major, thorny, highly risky kind of problem. The Congress and the executive came together and did that. But that was in an environment and attitude and atmosphere of genuine bipartisanship instead of this scoring of partisan points that seems to be done today.

I recommend that the White House come forth with its plan and do so in a bipartisan fashion, and then we can get the job done.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business and that the time not be deducted from the debate time on Mr. Chertoff's nomination.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

### SOCIAL SECURITY

Mr. DURBIN. Mr. President, President Bush and many of his supporters in Congress are trying to convince the American people about the so-called Social Security privatization plan. They are arguing that there is going to be a bargain by borrowing \$2 trillion now instead of paying over \$10 trillion later in the shortfall on Social Security. Once you learn the reality of the President's Social Security bargain, you understand why Americans of all ages are unwilling to buy into this Social Security privatization scheme.

The \$2 trillion it would cost to transition to a privatized Social Security system would do absolutely nothing to solve Social Security's long-term funding challenge. The argument on the other side was being made yesterday by